

116TH CONGRESS
1ST SESSION

H. R. 3610

To amend title 51, United States Code, to provide for the authorization and supervision of nongovernmental space activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 2019

Mr. BABIN introduced the following bill; which was referred to the Committee on Science, Space, and Technology

A BILL

To amend title 51, United States Code, to provide for the authorization and supervision of nongovernmental space activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “American Space Commerce Free Enterprise Act of
6 2019”.

7 (b) TABLE OF CONTENTS.—The table of contents is
8 as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; policy; purposes.
- Sec. 3. Certification to operate space objects.

- Sec. 4. Permitting of space-based remote sensing systems.
- Sec. 5. Administrative provisions related to certification and permitting.
- Sec. 6. Technical and conforming amendments.
- Sec. 7. Office of Space Commerce.
- Sec. 8. Restriction on preventing launches and reentries of certified space objects.
- Sec. 9. Report on registration of space objects.
- Sec. 10. Comptroller General report.

1 SEC. 2. FINDINGS; POLICY; PURPOSES.

2 (a) FINDINGS.—Congress finds the following:

3 (1) The United States, through existing author-
 4 ization and supervision mechanisms, satisfies and is
 5 in conformity with its obligation under the Outer
 6 Space Treaty to authorize and supervise nongovern-
 7 mental space activities to assure such activities are
 8 carried out in conformity with the international obli-
 9 gations of the United States under the Outer Space
 10 Treaty.

11 (2) The United States has a robust and innova-
 12 tive private sector that is investing in, developing,
 13 and placing into outer space, spacecraft and pay-
 14 loads.

15 (3) Authorization and supervision mechanisms
 16 as of the date of enactment of this Act could be im-
 17 proved to relieve administrative burdens on new and
 18 innovative nongovernmental space actors.

19 (4) It serves the national interest to address
 20 misperceptions of legal uncertainty through the es-
 21 tablishment of a general authorization and super-

1 vision certification authority for nongovernmental
2 outer space activities.

3 (5) The private exploration and use of outer
4 space by nongovernmental entities will further the
5 national security, foreign policy, and economic inter-
6 ests of the United States.

7 (b) POLICY.—It is the policy of the United States
8 that—

9 (1) United States citizens and entities are free
10 to explore and use space, including the utilization of
11 outer space and resources contained therein, without
12 conditions or limitations;

13 (2) this freedom is only to be limited when nec-
14 essary to assure United States national security in-
15 terests are met and to authorize and supervise non-
16 governmental space activities to assure such activi-
17 ties are carried out in conformity with the inter-
18 national obligations of the United States under the
19 Outer Space Treaty;

20 (3) to the maximum extent practicable, the
21 Federal Government shall interpret and fulfill its
22 international obligations to minimize regulations and
23 limitations on the freedom of United States non-
24 governmental entities to explore and use space;

1 (4) to the maximum extent practicable, the
2 Federal Government shall take steps to protect the
3 physical safety of space objects operated by the
4 United States that do not involve limitations on the
5 freedoms of nongovernmental entities of the United
6 States; and

7 (5) nongovernmental activities in outer space
8 shall only be authorized and supervised in a trans-
9 parent, timely, and predictable manner, with mini-
10 mal costs and burdens placed on the entities author-
11 ized and supervised.

12 (c) PURPOSES.—The purposes of this Act and the
13 amendments made by this Act are—

14 (1) to enhance the existing outer space author-
15 ization and supervision framework to provide greater
16 transparency, greater efficiency, and less administra-
17 tive burden for nongovernmental entities of the
18 United States seeking to conduct space activities;
19 and

20 (2) to ensure that the United States remains
21 the world leader in commercial space activities.

22 (d) DEFINITIONS.—In this Act—

23 (1) the term “Agreement on the Rescue of As-
24 tronauts and the Return of Space Objects” means
25 the Agreement on the Rescue of Astronauts, the Re-

1 turn of Astronauts and the Return of Objects
2 Launched into Outer Space (signed at Washington,
3 Moscow, and London on April 22, 1968, ratified by
4 the United States on December 3, 1968; 19 UST
5 7570);

6 (2) the term “Convention on Registration of
7 Space Objects” means the Convention on Registra-
8 tion of Objects Launched into Outer Space (signed
9 at New York on January 14, 1975, ratified by the
10 United States on September 15, 1976; 28 UST
11 695);

12 (3) the term “covered treaties on outer space”
13 means—

14 (A) the Outer Space Treaty;

15 (B) the Agreement on the Rescue of Astro-
16 nauts and the Return of Space Objects;

17 (C) the Convention on Registration of
18 Space Objects; and

19 (D) the Liability Convention;

20 (4) the term “Liability Convention” means the
21 Convention on the International Liability for Dam-
22 age Caused by Space Objects (signed at Washington,
23 Moscow, and London on March 29, 1972, ratified by
24 the United States on October 9, 1973; 24 UST
25 2389); and

1 (5) the term “Outer Space Treaty” means the
 2 Treaty on Principles Governing the Activities of
 3 States in the Exploration and Use of Outer Space,
 4 including the Moon and Other Celestial Bodies
 5 (signed at Washington, Moscow, and London on
 6 January 27, 1967, ratified by the United States on
 7 October 10, 1967; 18 UST 2410).

8 **SEC. 3. CERTIFICATION TO OPERATE SPACE OBJECTS.**

9 Title 51, United States Code, is amended by adding
 10 at the end the following:

11 **“Subtitle VIII—Authorization and**
 12 **Supervision of Nongovernmental**
 13 **Space Activities**
 14 **“CHAPTER 801—CERTIFICATION TO**
 15 **OPERATE SPACE OBJECTS**

“Sec.

“80101. Definitions.

“80102. Certification authority.

“80103. Certification application and requirements.

“80104. Mitigation of space debris.

“80105. Continuing certification requirements.

“80106. Certification transfer.

“80107. Certification expiration and termination.

“80108. Existing license or pending application for launch or reentry.

“80109. Private Space Activity Advisory Committee.

“80110. Exemptions.

“80111. Protecting the interests of United States entity space objects.

16 **“§ 80101. Definitions**

17 “In this subtitle:

1 “(1) AGENCY.—The term ‘agency’ has the
2 meaning given the term Executive agency in section
3 105 of title 5.

4 “(2) AGREEMENT ON THE RESCUE OF ASTRO-
5 NAUTS AND THE RETURN OF SPACE OBJECTS.—The
6 term ‘Agreement on the Rescue of Astronauts and
7 the Return of Space Objects’ means the Agreement
8 on the Rescue of Astronauts, the Return of Astro-
9 nauts and the Return of Objects Launched into
10 Outer Space (signed at Washington, Moscow, and
11 London on April 22, 1968, ratified by the United
12 States on December 3, 1968; 19 UST 7570).

13 “(3) CONVENTION ON REGISTRATION OF SPACE
14 OBJECTS.—The term ‘Convention on Registration of
15 Space Objects’ means the Convention on Registra-
16 tion of Objects Launched into Outer Space (signed
17 at New York on January 14, 1975, ratified by the
18 United States on September 15, 1976; 28 UST
19 695).

20 “(4) COVERED TREATIES ON OUTER SPACE.—
21 The term ‘covered treaties on outer space’ means—

22 “(A) the Outer Space Treaty;

23 “(B) the Agreement on the Rescue of As-
24 tronauts and the Return of Space Objects;

1 “(C) the Convention on Registration of
2 Space Objects; and

3 “(D) the Liability Convention.

4 “(5) LIABILITY CONVENTION.—The term ‘Li-
5 ability Convention’ means the Convention on the
6 International Liability for Damage Caused by Space
7 Objects (signed at Washington, Moscow, and Lon-
8 don on March 29, 1972, ratified by the United
9 States on October 9, 1973; 24 UST 2389).

10 “(6) NATIONAL OF THE UNITED STATES.—The
11 term ‘national of the United States’ has the meaning
12 given such term in section 101(a) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1101(a)).

14 “(7) OUTER SPACE TREATY.—The term ‘Outer
15 Space Treaty’ means the Treaty on Principles Gov-
16 erning the Activities of States in the Exploration
17 and Use of Outer Space, including the Moon and
18 Other Celestial Bodies (signed at Washington, Mos-
19 cow, and London on January 27, 1967, ratified by
20 the United States on October 10, 1967; 18 UST
21 2410).

22 “(8) SECRETARY.—The term ‘Secretary’
23 means, except as otherwise provided in this subtitle,
24 the Secretary of Commerce, acting through the Of-
25 fice of Space Commerce.

1 “(9) SPACE-BASED REMOTE SENSING SYS-
2 TEM.—The term ‘space-based remote sensing sys-
3 tem’ means a space object in Earth orbit that is—

4 “(A) designed to image the Earth; or

5 “(B) capable of imaging a space object in
6 Earth orbit operated by the Federal Govern-
7 ment.

8 “(10) SPACE DEBRIS MITIGATION.—The term
9 ‘space debris mitigation’ means efforts to—

10 “(A) prevent on-orbit break-ups;

11 “(B) remove spacecraft that have reached
12 the end of their mission operation from useful
13 densely populated orbit regions; and

14 “(C) limit the amount of debris released
15 during normal operations of a space object.

16 “(11) SPACE OBJECT.—

17 “(A) IN GENERAL.—The term ‘space ob-
18 ject’ means—

19 “(i) a human-made object located in
20 outer space, including on the Moon and
21 other celestial bodies, with or without
22 human occupants, that was launched from
23 Earth, such as a satellite or a spacecraft,
24 including component parts of the object;
25 and

1 “(ii) all items carried on such object
2 that are intended for use in outer space
3 outside of, and independent of, the oper-
4 ation of such object.

5 “(B) INCLUSION.—Such term includes any
6 human-made object that is—

7 “(i) manufactured or assembled in
8 outer space; and

9 “(ii) intended for operations in outer
10 space outside of, and independent of, the
11 operations of such object in which the
12 manufacturing or assembly occurred.

13 “(C) EXCLUSIONS.—Such term does not
14 include—

15 “(i) an article on board a space object
16 that is only intended for use inside the
17 space object;

18 “(ii) an article manufactured or proc-
19 essed in outer space that is a material; or

20 “(iii) an article intended for use out-
21 side of a space object as part of the cer-
22 tified operations of the space object.

23 “(12) STATE.—The term ‘State’ means each of
24 the several States of the United States, the District
25 of Columbia, the Commonwealth of Puerto Rico, the

1 United States Virgin Islands, Guam, American
2 Samoa, the Commonwealth of the Northern Mariana
3 Islands, and any other commonwealth, territory, or
4 possession of the United States.

5 “(13) UNITED STATES.—The term ‘United
6 States’ means the States, collectively.

7 “(14) UNITED STATES ENTITY.—The term
8 ‘United States entity’ means—

9 “(A) an individual who is a national of the
10 United States; or

11 “(B) a nongovernmental entity organized
12 or existing under, and subject to, the laws of
13 the United States or a State.

14 **“§ 80102. Certification authority**

15 “(a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of the American Space Commerce Free
17 Enterprise Act of 2019, the Secretary shall begin issuing
18 certifications for the operation of a space object to any
19 United States entity who submits an application for a cer-
20 tification in satisfaction of the requirements of this chap-
21 ter.

22 “(b) CONSULTATION.—The Secretary shall, as the
23 Secretary considers necessary, consult with the heads of
24 other relevant agencies in carrying out the requirements
25 of this chapter, pursuant to section 80311.

1 “(c) CERTIFICATION REQUIRED FOR OPERATION.—
2 Beginning on the date that is 1 year after the date of
3 enactment of the American Space Commerce Free Enter-
4 prise Act of 2019, a United States entity may not operate
5 a space object unless the entity holds a certification issued
6 under this chapter for the operation of such object or the
7 entity holds a valid payload approval for launch or reentry
8 under section 50904 as part of a license issued under
9 chapter 509, and that satisfies the requirements of section
10 80108(a).

11 “(d) FOREIGN ENTITIES PROHIBITED.—The Sec-
12 retary may not issue a certification under this chapter to
13 any person who is not a United States entity.

14 “(e) COVERAGE OF CERTIFICATION.—The Secretary
15 shall, to the maximum extent practicable, require only 1
16 certification under this chapter for a United States entity
17 to—

18 “(1) conduct multiple operations carried out
19 using a single space object;

20 “(2) operate multiple space objects that carry
21 out substantially similar operations; or

22 “(3) use multiple space objects to carry out a
23 single space operation.

24 **“§ 80103. Certification application and requirements**

25 “(a) APPLICATION PROCESS.—

1 “(1) IN GENERAL.—To be eligible for a certifi-
2 cation or transfer of a certification to operate a
3 space object under this chapter, a United States en-
4 tity shall submit an application to the Secretary as
5 provided in paragraph (2). Such application shall in-
6 clude, for each required item or attestation, suffi-
7 cient evidence to demonstrate each fact or assertion.

8 “(2) CONTENTS.—An application described in
9 paragraph (1) shall include only the following infor-
10 mation, with respect to each space object and the
11 operations proposed to be certified:

12 “(A) The name, address, and contact in-
13 formation of one or more nationals of the
14 United States designated by the applicant as
15 responsible for the operation of the space ob-
16 ject.

17 “(B) An affirmation, and a document of
18 proof, that the applicant is a United States en-
19 tity.

20 “(C) If available at the time of submission
21 of the application, the planned date and loca-
22 tion of the launch of the space object, including
23 the identity of the launch provider.

24 “(D) The general physical form and com-
25 position of the space object.

1 “(E) A description of the proposed oper-
2 ations of the space object that includes—

3 “(i) when and where the space object
4 will operate; and

5 “(ii) when and where the operation of
6 the space object will terminate.

7 “(F) A description of how the space object
8 will be operated and disposed of in a manner to
9 mitigate the generation of space debris.

10 “(G) Information about third-party liabil-
11 ity insurance obtained, if any, by the applicant
12 for operations of the space object, including the
13 amount and coverage of such liability insurance.

14 “(H) Whether the space object will include
15 a space-based remote sensing system.

16 “(3) ATTESTATIONS.—An application described
17 in paragraph (1) shall contain an attestation by the
18 applicant of each the following:

19 “(A) The space object is not a nuclear
20 weapon or a weapon of mass destruction.

21 “(B) The space object will not carry a nu-
22 clear weapon or weapon of mass destruction.

23 “(C) The space object will not be operated
24 or used for testing of any weapon on a celestial
25 body.

1 “(D) All information in the application and
2 supporting documents is true, complete, and ac-
3 curate.

4 “(b) REVIEW OF APPLICATION.—

5 “(1) VERIFICATION OF INFORMATION AND AT-
6 TESTATIONS.—Not later than 90 days after receipt
7 of an application under this section, the Secretary
8 shall verify that—

9 “(A) the application is complete, including
10 any required supporting documents;

11 “(B) the application does not contain any
12 clear indication of fraud or falsification; and

13 “(C) the application contains each attesta-
14 tion required under subsection (a)(3).

15 “(2) DETERMINATION.—Not later than 90 days
16 after receipt of an application under this section—

17 “(A) if the Secretary verifies that the ap-
18 plicant has met the application requirements
19 described in paragraph (1), the Secretary shall
20 approve the application and issue a certification
21 to the applicant with or without conditions on
22 the proposed operation of the space object pur-
23 suant to subsection (c)(1)(A); or

24 “(B) if the Secretary cannot verify that
25 the applicant has met the application require-

1 ments described in paragraph (1) or if the Sec-
2 retary determines it is necessary to deny the
3 application pursuant to subsection (c)(1)(B),
4 the Secretary—

5 “(i) shall issue a denial of the applica-
6 tion signed by the Secretary (a duty that
7 may not be delegated, including to the Of-
8 fice of Space Commerce); and

9 “(ii) shall, not later than 10 days
10 after the decision to deny the certifi-
11 cation—

12 “(I) provide the applicant with a
13 written notification containing a clear-
14 ly articulated rationale for the denial
15 that provides, to the maximum extent
16 practicable, guidance to the applicant
17 as to how such rationale for denial
18 could be addressed in a subsequent
19 application; and

20 “(II) notify the Committee on
21 Commerce, Science, and Transpor-
22 tation of the Senate and the Com-
23 mittee on Science, Space, and Tech-
24 nology of the House of Representa-
25 tives of such rationale.

1 “(3) AUTOMATIC APPROVAL.—If the Secretary
2 has not approved or denied the application before
3 the deadline under paragraph (2), the certification
4 shall be approved without condition. The Secretary
5 may not allow tolling of the 90-day period under
6 such paragraph.

7 “(4) IMPROPER BASIS FOR DENIAL.—The Sec-
8 retary may not deny an application for a certifi-
9 cation under this section in order to protect an exist-
10 ing certification holder from competition.

11 “(5) SUBSEQUENT REVIEW.—The Secretary
12 may not prejudice a new application for the pro-
13 posed operations denied pursuant to paragraph
14 (2)(B) if such new application contains remedies ad-
15 dressing the rationale for such denial.

16 “(c) COMPLIANCE WITH THE OUTER SPACE TREA-
17 TY.—

18 “(1) IN GENERAL.—If the Secretary deter-
19 mines, with clear and convincing evidence, that the
20 proposed operation of a space object under an appli-
21 cation for a certification under this chapter is a vio-
22 lation of an international obligation of the United
23 States pertaining to a nongovernmental entity of the
24 United States under the Outer Space Treaty—

1 “(A) the Secretary may condition the pro-
2 posed operation covered by the certification only
3 to the extent necessary to prevent a violation of
4 such international obligation; or

5 “(B) if the Secretary determines that there
6 is no practicable way to condition such certifi-
7 cation to prevent such a violation, the Secretary
8 may deny the application.

9 “(2) LIMITATION FOR DETERMINATIONS.—A
10 determination under paragraph (1) shall be limited
11 as follows:

12 “(A) The Federal Government shall inter-
13 pret and fulfill its international obligations
14 under the Outer Space Treaty in a manner that
15 minimizes regulations and limitations on the
16 freedom of United States nongovernmental enti-
17 ties to explore and use space.

18 “(B) The Federal Government shall inter-
19 pret and fulfill its international obligations
20 under the Outer Space Treaty in a manner that
21 promotes free enterprise in outer space.

22 “(C) The Federal Government shall not
23 presume all obligations of the United States
24 under the Outer Space Treaty are obligations to

1 be imputed upon United States nongovern-
2 mental entities.

3 “(D) Guidelines promulgated by the Com-
4 mittee on Space Research may not be consid-
5 ered international obligations of the United
6 States.

7 “(3) PRESUMPTIONS.—In making a determina-
8 tion under paragraph (1), the Secretary shall pre-
9 sume, absent clear and convincing evidence to the
10 contrary, that—

11 “(A) any attestation made by an applicant
12 pursuant to subsection (a)(3) is sufficient to
13 meet the international obligations of the United
14 States pertaining to nongovernmental entities of
15 the United States under the Outer Space Trea-
16 ty addressed by such attestation; and

17 “(B) reasonably commercially available ef-
18 forts are sufficient to be in conformity with the
19 international obligations of the United States
20 pertaining to nongovernmental entities of the
21 United States under the Outer Space Treaty.

22 “(4) PROHIBITION ON RETROACTIVE CONDI-
23 TIONS.—No other modifications may be made, or
24 additional conditions placed, on a certification after
25 the date on which the certification is issued (except

1 to account for a material change as provided in sec-
 2 tion 80105(c) or the removal of a condition pursuant
 3 to subsection (d)).

4 “(5) NONDELEGABLE.—The responsibilities of
 5 the Secretary under this subsection may not be dele-
 6 gated, including to the Office of Space Commerce.

7 “(d) AUTHORITY TO REMOVE CONDITIONS.—The
 8 Secretary, as determined appropriate, may remove a con-
 9 dition placed on a certification pursuant to subsection (c).

10 **“§ 80104. Mitigation of space debris**

11 “(a) PLAN SUBMISSION.—To be eligible for a certifi-
 12 cation under this chapter, each application shall include
 13 a space debris mitigation plan for the space object. Such
 14 plan—

15 “(1) shall take into account best practice guide-
 16 lines promulgated by the United States and the
 17 Interagency Debris Coordinating Committee; and

18 “(2) may take into account that a space object
 19 may end certified operations and be stored in a safe
 20 manner until such time as the space object is perma-
 21 nently disposed of or certified for further operations.

22 “(b) IMPLEMENTATION.—To the maximum extent
 23 practicable, a holder of a certification under this chapter
 24 shall notify the Secretary not later than 30 days before
 25 beginning to implement the disposal phase of a space de-

1 bris mitigation plan described in subsection (a). Such cer-
2 tification holder shall, not later than 30 days after com-
3 pleting implementation of such phase, update the Sec-
4 retary of the results of any space debris mitigation efforts.

5 **“§ 80105. Continuing certification requirements**

6 “(a) NOTIFICATION REQUIREMENT.—A certification
7 holder shall, in a timely manner, notify the Secretary if—

8 “(1) a certified space object has terminated op-
9 erations; or

10 “(2) a catastrophic event has occurred to a cer-
11 tified space object, such as the unplanned destruc-
12 tion of a space object.

13 “(b) MATERIAL CHANGE.—The Secretary shall re-
14 quire certification holders to inform the Secretary of—

15 “(1) any material changes to the space object
16 or the planned operations of the space object prior
17 to launch; and

18 “(2) any material anomalies or departures from
19 the planned operations during the course of oper-
20 ations.

21 “(c) UPDATE TO CERTIFICATION.—Not later than 14
22 days after the date of receipt of information regarding a
23 material change pursuant to subsection (b), the Secretary
24 shall make a determination of whether such material
25 change is substantial enough to warrant additional review

1 under section 80103(b). Not later than 90 days after a
2 determination that such review is warranted, the Secretary
3 shall complete a similar such review process for such mate-
4 rial change as is required for a certification applicant
5 under such section.

6 **“§ 80106. Certification transfer**

7 “(a) IN GENERAL.—Subject to subsections (b) and
8 (c), the Secretary shall provide for the transfer of a certifi-
9 cation under this chapter from the certification holder to
10 another United States entity to continue the operations
11 allowed under such certification.

12 “(b) TRANSFER REQUEST REQUIREMENTS.—To be
13 eligible for a transfer under subsection (a), the certifi-
14 cation holder shall submit to the Secretary a request that
15 includes—

16 “(1) any identifying information regarding the
17 proposed transferee, including accompanying sup-
18 porting documents, that would be required under an
19 initial application under section 80103; and

20 “(2) each attestation required under section
21 80103(a)(3), including accompanying supporting
22 documents, completed by the proposed transferee.

23 “(c) DETERMINATION.—Not later than 90 days after
24 a certification holder submits a request under subsection
25 (b), the Secretary shall complete a similar review process

1 for the request for transfer as required for a certification
2 applicant under section 80103(b).

3 **“§ 80107. Certification expiration and termination**

4 “(a) CERTIFICATION EXPIRATION.—A certification
5 issued under this chapter shall expire on the earlier of—

6 “(1) the date on which all operations approved
7 under such certification cease, including carrying out
8 a space debris mitigation plan of any space object
9 approved under such certification;

10 “(2) the date on which all space objects ap-
11 proved under the certification no longer exist; or

12 “(3) the date that is 5 years after the date on
13 which the certification was approved, if no oper-
14 ations approved under the certification have com-
15 menced by such date.

16 “(b) CERTIFICATION TERMINATION.—

17 “(1) IN GENERAL.—The Secretary shall termi-
18 nate a certification under this chapter if an appli-
19 cant or certification holder is convicted of a violation
20 of section 1001 of title 18 related to the certification
21 process under this chapter.

22 “(2) ELIGIBILITY.—A certification holder
23 whose certification is terminated under this sub-
24 section shall be ineligible to apply for or receive a
25 certification under this chapter.

1 “(3) SPACE DEBRIS MITIGATION PLAN.—Upon
2 termination of a certification under paragraph (1),
3 the Secretary may require the certification holder to
4 carry out the space debris mitigation plan submitted
5 by the certification holder under section 80104.

6 **“§ 80108. Existing license or pending application for**
7 **launch or reentry**

8 “(a) CONTINUATION OF EXISTING LICENSE.—Any
9 United States entity for whom a payload has been ap-
10 proved (and not subject to an exemption under section
11 80110) on or before the effective date of this section for
12 launch or reentry under section 50904 as part of a license
13 issued under chapter 509 may—

14 “(1) elect to be immediately considered certified
15 for operation under this chapter on such effective
16 date, in which case all terms and conditions applica-
17 ble to the payload as approved for launch or reentry
18 as part of a license issued under chapter 509 shall
19 apply for the duration of the operation of the pay-
20 load; or

21 “(2) apply for a certification under this chapter
22 for the operation of the licensed activities and may
23 continue to operate pursuant to such license until
24 such time as such certification is issued.

1 “(b) RESCINDING OR TRANSFER OF PENDING LI-
 2 CENSE.—A payload of a United States entity that, on the
 3 effective date of this section, is pending approval under
 4 section 50904 as part of a launch or reentry license issued
 5 under chapter 509 may be, at the election of the applicant
 6 for payload approval—

7 “(1) rescinded without prejudice; or

8 “(2) transferred to the Office of Space Com-
 9 merce and deemed to be a pending application for
 10 certification under this chapter.

11 “(c) EFFECTIVE DATE.—This section shall take ef-
 12 fect on the date that is 1 year after the date of enactment
 13 of the American Space Commerce Free Enterprise Act of
 14 2019.

15 **“§ 80109. Private Space Activity Advisory Committee**

16 “(a) ESTABLISHMENT.—The Secretary shall estab-
 17 lish a Private Space Activity Advisory Committee (in this
 18 section referred to as the ‘Committee’) consisting of 15
 19 members who shall be appointed by the Secretary.

20 “(b) CHAIR.—The Committee shall designate one
 21 member as the chair of the Committee.

22 “(c) MEMBERSHIP.—

23 “(1) LIMITATION.—Members of the Committee
 24 may not be Federal Government employees or offi-
 25 cials.

1 “(2) TRAVEL EXPENSES.—Members of the
2 Committee shall receive travel expenses, including
3 per diem in lieu of subsistence, in accordance with
4 the applicable provisions under subchapter I of chap-
5 ter 57 of title 5.

6 “(3) QUALIFICATIONS.—Members of the Com-
7 mittee shall include a variety of space policy, engi-
8 neering, technical, science, legal, and finance profes-
9 sionals. Not less than 3 members shall have signifi-
10 cant experience working in the commercial space in-
11 dustry.

12 “(d) TERMS.—Each member of the Committee shall
13 serve for a term of 4 years and may not serve as a member
14 for the 2-year period following the date of completion of
15 each such term.

16 “(e) DUTIES.—The duties of the Committee shall be
17 to—

18 “(1) analyze the status and recent develop-
19 ments of nongovernmental space activities;

20 “(2) analyze the effectiveness and efficiency of
21 the implementation of the certification process under
22 this chapter;

23 “(3) provide recommendations to the Secretary
24 and Congress on how the United States can facili-
25 tate and promote a robust and innovative private

1 sector that is investing in, developing, and operating
2 space objects;

3 “(4) identify any challenges the United States
4 private sector is experiencing—

5 “(A) with the authorization and super-
6 vision of the operation of space objects under
7 this chapter;

8 “(B) more generally, with international ob-
9 ligations of the United States relevant to pri-
10 vate sector activities in outer space;

11 “(C) with harmful interference to private
12 sector activities in outer space; and

13 “(D) with access to adequate, predictable,
14 and reliable radio frequency spectrum;

15 “(5) review existing best practices for United
16 States entities to avoid the harmful contamination of
17 the Moon and other celestial bodies;

18 “(6) review existing best practices for United
19 States entities to avoid adverse changes in the envi-
20 ronment of the Earth resulting from the introduc-
21 tion of extraterrestrial matter;

22 “(7) provide information, advice, and rec-
23 ommendations on matters relating to United States
24 private sector activities in outer space; and

1 “(8) provide information, advice, and rec-
2 ommendations on matters related to the authority of
3 the Secretary under this chapter or to private sector
4 space activities authorized pursuant to this chapter
5 that the Committee determines necessary.

6 “(f) ANNUAL REPORT.—The Committee shall submit
7 to Congress, the President, and the Secretary an annual
8 report that includes the information, analysis, findings,
9 and recommendations described in subsection (e).

10 “(g) SUNSET.—The Committee shall terminate on
11 the date that is 10 years after the date on which the Com-
12 mittee is established.

13 **“§ 80110. Exemptions**

14 “(a) IN GENERAL.—A certification is not required
15 under this chapter for any of the following operations:

16 “(1) Space object activities authorized by an-
17 other country that is a party to the Outer Space
18 Treaty.

19 “(2) Launch or reentry vehicle operations li-
20 censed by the Department of Transportation under
21 chapter 509.

22 “(3) Space stations licensed by the Federal
23 Communications Commission under the Communica-
24 tions Act of 1934 (47 U.S.C. 151 et seq.).

1 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
 2 tion shall be construed to exempt any entity from the re-
 3 quirement to obtain a permit to operate a space-based re-
 4 mote sensing system under chapter 802.

5 **“§ 80111. Protecting the interests of United States en-**
 6 **tity space objects**

7 “The President shall—

8 “(1) protect the interests of United States enti-
 9 ty exploration and use of outer space, including com-
 10 mercial activity and the exploitation of space re-
 11 sources, from acts of foreign aggression and foreign
 12 harmful interference;

13 “(2) protect ownership rights of United States
 14 entity space objects and obtained space resources;
 15 and

16 “(3) ensure that United States entities oper-
 17 ating in outer space are given due regard.”.

18 **SEC. 4. PERMITTING OF SPACE-BASED REMOTE SENSING**
 19 **SYSTEMS.**

20 (a) FINDINGS.—Congress finds the following:

21 (1) The commercial market for space-based re-
 22 mote sensing technologies and information has expe-
 23 rienced significant growth since the passage of the
 24 Land Remote Sensing Policy Act of 1992.

1 (2) It is in the interest of the United States to
2 foster new and novel space-based remote sensing ap-
3 plications and services and to help facilitate their
4 continued domestic growth.

5 (3) Since the passage of the Land Remote
6 Sensing Policy Act of 1992, the National Oceanic
7 and Atmospheric Administration’s Office of Com-
8 mercial Remote Sensing has experienced a signifi-
9 cant increase in applications for private remote sens-
10 ing space system licenses as authorized under sec-
11 tion 60121 of title 51, United States Code.

12 (4) Many of the applicants for commercial
13 space-based remote sensing licenses have encoun-
14 tered significant delays and unnecessary obstacles in
15 the application process.

16 (5) The current licensing paradigm must be up-
17 dated as to not discourage the continued growth of
18 the United States space-based remote sensing indus-
19 try. It must be updated in a way that satisfies the
20 needs of commercial remote sensing market as well
21 as the national security of the United States.

22 (6) In order to protect United States leadership
23 and commercial viability in remote sensing tech-
24 nologies, the Federal Government should not limit
25 commercial entities from providing remote sensing

1 capabilities or data products that are available or
 2 reasonably expected to be made available in the next
 3 3 years in the international or domestic marketplace.

4 (b) POLICY.—It is the policy of the United States
 5 that, to the maximum extent practicable, the Federal Gov-
 6 ernment shall take steps to protect the national security
 7 interests of the United States that do not involve regu-
 8 lating or limiting the freedoms of United States non-
 9 governmental entities to explore and use space. Federal
 10 Government agencies shall mitigate any threat to national
 11 security posed by the exploration and use of outer space
 12 by United States citizens and entities, to the maximum
 13 extent practicable, changing Federal Government activi-
 14 ties and operations.

15 (c) AMENDMENT.—Title 51, United States Code, is
 16 further amended by adding at the end the following:

17 **“CHAPTER 802—PERMITTING OF SPACE-**
 18 **BASED REMOTE SENSING SYSTEMS**

“Sec.

“80201. Permitting authority.

“80202. Application for permit.

“80203. Continuing permitting requirements.

“80204. Permit transfer.

“80205. Agency activities.

“80206. Annual reports.

“80207. Advisory Committee on Commercial Remote Sensing.

“80208. Continuation of existing license or pending application.

“80209. Commercial Remote Sensing Regulatory Affairs Office.

1 **“§ 80201. Permitting authority**

2 “(a) IN GENERAL.—Not later than 1 year after the
3 date of enactment of the American Space Commerce Free
4 Enterprise Act of 2019 the Secretary is authorized to per-
5 mit persons to operate space-based remote sensing sys-
6 tems.

7 “(b) CONSULTATION.—The Secretary shall, as the
8 Secretary considers necessary, consult with the heads of
9 other relevant agencies in carrying out the requirements
10 of this chapter, pursuant to section 80311.

11 “(c) LIMITATION WITH RESPECT TO SYSTEM USED
12 FOR OTHER PURPOSES.—In the case of a space object
13 that is used for remote sensing and other purposes, the
14 authority of the Secretary under this chapter shall be lim-
15 ited to the remote sensing operations of such space object.

16 “(d) DE MINIMIS EXCEPTION.—

17 “(1) WAIVER.—The Secretary may waive the
18 requirement for a permit for a space-based remote
19 sensing system that the Secretary determines is—

20 “(A) ancillary to the primary design pur-
21 pose of the space object; or

22 “(B) too trivial to require a determination
23 under section 80202(c) relating to national se-
24 curity.

25 “(2) GUIDANCE.—Not later than 1 year after
26 the date of enactment of this subsection, the Sec-

1 retary shall issue guidance providing a clear expla-
2 nation of the criteria used by the Secretary to grant
3 a de minimis waiver under paragraph (1)(B) for a
4 space-based remote sensing system that is too trivial
5 to require a determination under section 80202(c).

6 “(e) COVERAGE OF PERMIT.—The Secretary shall, to
7 the maximum extent practicable, ensure that only one per-
8 mit is required under this chapter to—

9 “(1) conduct multiple operations carried out
10 using a space-based remote sensing system;

11 “(2) operate multiple space-based remote sens-
12 ing systems that carry out substantially similar op-
13 erations; or

14 “(3) use multiple space-based remote sensing
15 systems to carry out a single remote sensing oper-
16 ation.

17 “(f) PROHIBITION ON OPERATION.—Not later than
18 1 year after the date of enactment of the American Space
19 Commerce Free Enterprise Act of 2019, no person may,
20 directly or through any subsidiary or affiliate, operate any
21 space-based remote sensing system without a permit
22 issued under this chapter.

23 “(g) RESPONSIBLE PARTY.—In any case in which the
24 applicant for a permit under this chapter is not a United
25 States entity, the applicant shall identify a United States

1 entity that consents to be responsible for the permitted
 2 operation of the space-based remote sensing system.

3 “(h) OPERATION OF SPACE-BASED REMOTE SENS-
 4 ING SYSTEM.—For purposes of this chapter, the operation
 5 of a space-based remote sensing system—

6 “(1) begins when the system—

7 “(A) is located in outer space; and

8 “(B) can meet the minimum threshold and
 9 objective capabilities for the system’s stated
 10 need; and

11 “(2) shall not cover the acts of distribution,
 12 sale, or transfer of data, information, or services to
 13 persons, foreign or domestic, including any such acts
 14 taken pursuant to an agreement with such persons.

15 **“§ 80202. Application for permit**

16 “(a) APPLICATION PROCESS.—

17 “(1) IN GENERAL.—To receive a permit to op-
 18 erate a space-based remote sensing system under
 19 this chapter, a person shall submit an application to
 20 the Secretary as provided in paragraph (2). Such
 21 application shall include, for each required item, suf-
 22 ficient evidence to demonstrate each fact or asser-
 23 tion.

24 “(2) CONTENTS.—An application described in
 25 paragraph (1) shall include only the following infor-

1 mation, with respect to each space-based remote
2 sensing system and the operations proposed to be
3 permitted:

4 “(A) The name, address, and contact in-
5 formation of one or more United States entity
6 identified by the applicant, pursuant to section
7 80201(g), as responsible for the operation of
8 the space-based remote sensing system.

9 “(B) If available at the time of submission
10 of the application, the planned date and loca-
11 tion of the launch of the applicable space object,
12 including the identity of the launch provider.

13 “(C) The general physical form and com-
14 position of the space-based remote sensing sys-
15 tem.

16 “(D) A description of the proposed oper-
17 ations of the space-based remote sensing system
18 that includes—

19 “(i) when and where the space-based
20 remote sensing system will operate;

21 “(ii) when and where the operation of
22 the space-based remote sensing system will
23 terminate; and

24 “(iii) any additional information nec-
25 essary to make a determination under sub-

1 section (c) regarding a significant threat to
2 national security, as prescribed in advance
3 in regulation by the Secretary.

4 “(E) A description of how the space-based
5 remote sensing system will be operated and dis-
6 posed of in a manner to mitigate the generation
7 of space debris.

8 “(F) Information about third-party liabil-
9 ity insurance obtained, if any, by the applicant
10 for operations of the space-based remote sens-
11 ing system, including the amount and coverage
12 of such liability insurance.

13 “(b) REVIEW OF APPLICATION.—

14 “(1) VERIFICATIONS.—Not later than 90 days
15 after receipt of an application under this section, the
16 Secretary shall verify that—

17 “(A) the application is complete pursuant
18 to subsection (a); and

19 “(B) the application does not contain any
20 clear indication of fraud or falsification.

21 “(2) DETERMINATION.—Not later than 90 days
22 after receipt of an application under this section—

23 “(A) if the Secretary verifies that the ap-
24 plicant has met the application requirements
25 described in paragraph (1), the Secretary shall

1 approve the application and issue a permit to
2 the applicant with or without conditions on the
3 proposed operation of the space-based remote
4 sensing system pursuant to subsection
5 (c)(1)(A); or

6 “(B) if the Secretary cannot verify that
7 the applicant has met the application require-
8 ments described in paragraph (1) or if the Sec-
9 retary makes a determination to deny the appli-
10 cation under subsection (c)(1)(B), the Sec-
11 retary—

12 “(i) shall issue a denial of the applica-
13 tion signed by the Secretary (a duty that
14 may not be delegated, including to the Of-
15 fice of Space Commerce); and

16 “(ii) shall, not later than 10 days
17 after the decision to deny the application—

18 “(I) provide the applicant with a
19 written notification containing a clear-
20 ly articulated rationale for the denial
21 that, to the maximum extent prac-
22 ticable—

23 “(aa) provides guidance to
24 the applicant as to how the ar-
25 ticulated rationale for denial

1 could be addressed in a subse-
2 quent application; and

3 “(bb) includes all classified
4 information included in such ra-
5 tionale for which the applicant
6 has the required security clear-
7 ance; and

8 “(II) submit a notification of the
9 denial to the Committee on Com-
10 merce, Science, and Transportation of
11 the Senate and the Committee on
12 Science, Space, and Technology of the
13 House of Representatives that—

14 “(aa) contains the clearly
15 articulated rationale for the de-
16 nial; and

17 “(bb) in the case of a denial
18 pursuant to a national security
19 determination under subsection
20 (c)—

21 “(AA) includes an ex-
22 planation of how, and clear
23 and convincing evidence
24 that, to the maximum extent
25 practicable, the Federal

1 Government took steps to
2 mitigate a significant threat
3 to the national security of
4 the United States posed by
5 the operation of the appli-
6 cant's space-based remote
7 sensing system by changing
8 Federal Government activi-
9 ties and operations; and
10 “(BB) may contain
11 classified information.

12 “(3) AUTOMATIC APPROVAL.—If the Secretary
13 has not approved or denied the application before
14 the deadline under paragraph (2), the application
15 shall be approved without condition. The Secretary
16 may not allow tolling of the 90-day period under
17 such paragraph.

18 “(4) IMPROPER BASIS FOR DENIAL.—The Sec-
19 retary may not deny an application for a permit
20 under this section in order to protect an existing
21 permit holder from competition.

22 “(5) SUBSEQUENT REVIEW.—The Secretary
23 may not prejudice a new application for the pro-
24 posed operations denied pursuant to paragraph

1 (2)(B) if such new application contains remedies ad-
2 dressing the rationale for such denial.

3 “(c) ADDRESSING NATIONAL SECURITY THREAT.—

4 “(1) IN GENERAL.—If the Secretary deter-
5 mines, with clear and convincing evidence, that the
6 proposed operation of a space-based remote sensing
7 system under an application for a permit under this
8 chapter poses a significant threat to the national se-
9 curity of the United States as provided in paragraph
10 (2)—

11 “(A) the Secretary may condition the pro-
12 posed operation covered by the permit only to
13 the extent necessary to address such threat; or

14 “(B) if the Secretary determines that there
15 is no practicable way to condition such permit
16 to address such threat, the Secretary may deny
17 the application.

18 “(2) SIGNIFICANT THREAT TO NATIONAL SECU-
19 RITY.—For purposes of a determination under para-
20 graph (1), a significant threat to the national secu-
21 rity of the United States is a threat—

22 “(A) that is imminent; and

23 “(B) that cannot practicably be mitigated
24 through changes to Federal Government activi-
25 ties or operations.

1 “(3) REASONABLY COMMERCIALY AVAILABLE
2 EFFORTS.—To the maximum extent practicable, the
3 Secretary shall only place a condition on a permit
4 that is achievable using reasonably commercially
5 available efforts.

6 “(4) NOTIFICATION.—Not later than 10 days
7 after the decision to condition the proposed oper-
8 ation covered by a permit pursuant to this sub-
9 section, the Secretary shall—

10 “(A) provide the applicant with a written
11 notification containing a clearly articulated ra-
12 tionale for the condition that, to the maximum
13 extent practicable—

14 “(i) provides guidance to the applicant
15 as to how the articulated rationale for con-
16 dition could be addressed in a subsequent
17 application; and

18 “(ii) includes all classified information
19 included in such rationale for which the
20 applicant has the required security clear-
21 ance; and

22 “(B) submit a notification of the condition
23 to the Committee on Commerce, Science, and
24 Transportation of the Senate and the Com-

mittee on Science, Space, and Technology of
the House of Representatives that—

“(i) contains the clearly articulated
rationale for the condition;

“(ii) includes an explanation of how,
and clear and convincing evidence that, to
the maximum extent practicable, the Fed-
eral Government took steps to mitigate a
significant threat to the national security
of the United States posed by the oper-
ation of the applicant’s space-based remote
sensing system by changing Federal Gov-
ernment activities and operations; and

“(iii) may contain classified informa-
tion.

“(5) PROHIBITION ON RETROACTIVE CONDI-
TIONS.—No other modifications may be made, or
additional conditions placed, on a permit after the
date on which the permit is issued except to account
for a material change as provided in section
80203(c).

“(6) NONDELEGABLE.—The responsibilities of
the Secretary under this subsection may not be dele-
gated, including to the Office of Space Commerce.

“(d) LIMITATIONS ON CONDITIONS.—

1 “(1) SAME OR SIMILAR CAPABILITY.—No oper-
2 ational condition under subsection (c) may be placed
3 on a space-based remote sensing system that has the
4 same or substantially similar space-based remote
5 sensing capabilities as another system permitted
6 under this chapter with no such condition.

7 “(2) CONDITIONS THAT EXCEED PERMITTED
8 CONDITIONS.—The Secretary may not place a condi-
9 tion on a permit for a space-based remote sensing
10 system that exceeds a condition placed on an exist-
11 ing permitted system that has the same or substan-
12 tially similar capabilities.

13 “(e) COMMERCIALY AVAILABLE CAPABILITY.—

14 “(1) EXCEPTION.—The Secretary may not deny
15 an application for, or place a condition on, a permit
16 for the operation of a space-based remote sensing
17 system for which the same or substantially similar
18 capabilities, derived data, products, or services are
19 already commercially available or reasonably ex-
20 pected to be made available in the next 3 years in
21 the international or domestic marketplace. The ex-
22 ception in the previous sentence applies regardless of
23 whether the marketplace products and services origi-
24 nate from the operation of aircraft, unmanned air-

craft, or other platforms or technical means or are assimilated from a variety of data sources.

“(2) CLEAR AND CONVINCING EVIDENCE.—
Each denial of an application for, and each condition placed on, a permit for the operation of a space-based remote sensing system, shall include an explanation of, and clear and convincing evidence that, the exception under paragraph (1) does not apply with respect to the proposed permitted operations of such system.

“(3) DATABASE.—The President shall—

“(A) maintain a database of commercially available capabilities described in paragraph (1);

“(B) update such database not less than once every 3 months; and

“(C) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report containing the contents of the database upon each update required under subparagraph (B).

“(4) APPLICANT SUBMISSIONS.—An applicant for, or holder of, a permit for the operation of a

1 space-based remote sensing system may submit to
2 the Secretary evidence of, or information regarding,
3 a commercially available capability described in
4 paragraph (1) for consideration for inclusion in the
5 database.

6 “(5) NONAPPLICATION OF CONDITION.—In any
7 case in which the Secretary determines that the ex-
8 ception under paragraph (1) applies with respect to
9 a permit for the operation of a space-based remote
10 sensing system for which the Secretary has placed a
11 condition under subsection (c), such condition shall
12 no longer apply with respect to such permitted oper-
13 ations.

14 “(f) AUTHORITY TO REMOVE CONDITIONS.—Noth-
15 ing in this section shall be construed to prohibit the Sec-
16 retary from removing a condition placed on a permit pur-
17 suant to subsection (c).

18 **“§ 80203. Continuing permitting requirements**

19 “(a) NOTIFICATION REQUIREMENT.—A permit hold-
20 er shall, in a timely manner, notify the Secretary if—

21 “(1) a permitted space-based remote sensing
22 system has terminated operations; or

23 “(2) a catastrophic event has occurred to a
24 space-based remote sensing system, such as the un-
25 planned destruction of such system.

1 “(b) MATERIAL CHANGE.—The Secretary shall re-
2 quire permit holders to inform the Secretary of—

3 “(1) any material changes to the space-based
4 remote sensing system or the planned operations of
5 such system prior to launch; and

6 “(2) any material anomalies or departures from
7 the planned operations during the course of oper-
8 ations.

9 “(c) UPDATE TO PERMIT.—Not later than 14 days
10 after the date of receipt of information regarding a mate-
11 rial change pursuant to subsection (b), the Secretary shall
12 make a determination of whether such material change is
13 substantial enough to warrant additional review under sec-
14 tion 80202(b). Not later than 90 days after a determina-
15 tion that such review is warranted, the Secretary shall
16 complete a similar such review process for such material
17 change as is required for a permit applicant under such
18 section.

19 **“§ 80204. Permit transfer**

20 “(a) IN GENERAL.—Subject to subsections (b) and
21 (c), the Secretary shall provide for the transfer of a permit
22 under this chapter from the permit holder to another per-
23 son to continue the operations allowed under such permit.

24 “(b) TRANSFER REQUEST REQUIREMENTS.—To be
25 eligible for a transfer under subsection (a), the permit

1 holder shall submit to the Secretary a request that in-
2 cludes any identifying information regarding the trans-
3 feree that would be required under an initial application
4 under section 80202.

5 “(c) DETERMINATION.—Not later than 14 days after
6 the date on which the Secretary receives a transfer request
7 pursuant to subsection (b), the Secretary shall make a de-
8 termination of whether such material change is substantial
9 enough to warrant additional review under section
10 80202(b). Not later than 90 days after a determination
11 that such review is warranted, the Secretary shall com-
12 plete a similar such review process for such transferee as
13 is required for a permit applicant under such section.

14 “(d) MATERIAL CHANGE.—Any transfer of a permit
15 under this chapter constitutes a material change under
16 section 80203(b).

17 **“§ 80205. Agency activities**

18 “(a) UTILIZATION OF FEDERAL GOVERNMENT VEHI-
19 CLE.—A person may apply for a permit to operate a
20 space-based remote sensing system that utilizes, on a
21 space-available basis, a civilian Federal Government sat-
22 ellite or vehicle as a platform for such system. The Sec-
23 retary, pursuant to this chapter, may permit such system
24 if it meets all conditions of this chapter.

1 “(b) ASSISTANCE.—The Secretary may offer assist-
2 ance to persons in finding appropriate opportunities for
3 the utilization described in subsection (a).

4 “(c) AGREEMENTS.—To the extent provided in ad-
5 vance by appropriation Acts, an agency may enter into an
6 agreement for the utilization described in subsection (a)
7 if such agreement is consistent with the agency’s mission
8 and statutory authority, and if the space-based remote
9 sensing system is issued a permit by the Secretary under
10 this chapter before commencing operation.

11 **“§ 80206. Annual reports**

12 “(a) IN GENERAL.—The Secretary shall submit a re-
13 port to the Committee on Commerce, Science, and Trans-
14 portation of the Senate and the Committee on Science,
15 Space, and Technology of the House of Representatives
16 not later than 180 days after the date of enactment of
17 the American Space Commerce Free Enterprise Act of
18 2019, and annually thereafter, on—

19 “(1) the Secretary’s implementation of this
20 chapter, including—

21 “(A) a list of all applications received in
22 the previous calendar year;

23 “(B) a list of all applications that resulted
24 in a permit;

1 “(C) a list of all applications denied and
 2 an explanation of why each application was de-
 3 nied, including any information relevant to the
 4 adjudication process of a request for a permit;

5 “(D) a list of all applications that required
 6 additional information; and

7 “(E) a list of all applications whose dis-
 8 position exceeded the 90-day deadline, the total
 9 days overdue for each application that exceeded
 10 such deadline, and an explanation for the delay;
 11 and

12 “(2) a description of all actions taken by the
 13 Secretary under the administrative authority grant-
 14 ed by section 80301.

15 “(b) CLASSIFIED ANNEXES.—Each report under sub-
 16 section (a) may include classified annexes as necessary to
 17 protect the disclosure of sensitive or classified information.

18 **“§ 80207. Advisory Committee on Commercial Remote**
 19 **Sensing**

20 “(a) ESTABLISHMENT.—The Secretary shall estab-
 21 lish an Advisory Committee on Commercial Remote Sens-
 22 ing (in this section referred to as the ‘Committee’) con-
 23 sisting of 15 members who shall be appointed by the Sec-
 24 retary.

1 “(b) CHAIR.—The Committee shall designate one
2 member as the chair of the Committee.

3 “(c) MEMBERSHIP.—

4 “(1) LIMITATION.—Members of the Committee
5 may not be Federal Government employees or offi-
6 cials.

7 “(2) TRAVEL EXPENSES.—Members of the
8 Committee shall receive travel expenses, including
9 per diem in lieu of subsistence, in accordance with
10 the applicable provisions under subchapter I of chap-
11 ter 57 of title 5.

12 “(d) TERMS.—Each member of the Committee shall
13 serve for a term of 4 years and may not serve as a member
14 for the 2-year period following the date of completion of
15 each such term.

16 “(e) DUTIES.—The duties of the Committee shall be
17 to—

18 “(1) provide information, advice, and rec-
19 ommendations on matters relating to the United
20 States commercial space-based remote sensing in-
21 dustry;

22 “(2) analyze the effectiveness and efficiency of
23 the implementation of the space-based remote sens-
24 ing system permitting process under this chapter;

1 “(3) provide recommendations to the Secretary
2 and Congress on how the United States can facili-
3 tate and promote a robust and innovate private sec-
4 tor that is investing in, developing, and operating
5 space-based remote sensing systems;

6 “(4) identify any challenges the United States
7 private sector is experiencing with the authorization
8 and supervision of the operation of space-based re-
9 mote sensing systems under this chapter; and

10 “(5) provide information, advice, and rec-
11 ommendations on matters related to the authority of
12 the Secretary under this chapter or to private sector
13 space activities authorized pursuant to this chapter
14 that the Committee determines necessary.

15 “(f) ANNUAL REPORT.—The Committee shall submit
16 to Congress, the President, the Secretary, and the Direc-
17 tor of the Office of Space Commerce, an annual report
18 that includes the information, analysis, findings, and rec-
19 ommendations described in subsection (e).

20 “(g) SUNSET.—The Committee shall terminate on
21 the date that is 10 years after the date on which the Com-
22 mittee is established.

1 **“§ 80208. Continuation of existing license or pending**
2 **application**

3 “(a) CONTINUATION OF EXISTING LICENSE.—Any
4 United States entity for whom a license for the operation
5 of a space-based remote sensing system issued under sub-
6 chapter III of chapter 601 that is valid on the effective
7 date of this section may—

8 “(1) elect to be immediately considered per-
9 mitted for operation under this chapter, in which
10 case all terms and conditions of a license issued
11 under such subchapter with respect to the operation
12 of such system shall apply for the duration of the li-
13 cense; or

14 “(2) apply for a permit for operation under this
15 chapter and may continue to operate pursuant to
16 such license until such time as such permit is issued.

17 “(b) RESCIND OR TRANSFER OF PENDING LI-
18 CENSE.—An applicant with an application for a remote
19 sensing license under subchapter III of chapter 601 that
20 is pending on the effective date of this section may be,
21 at the election of the applicant—

22 “(1) rescinded without prejudice; or

23 “(2) transferred to the Office of Space Com-
24 merce and deemed to be a pending application for a
25 permit under this chapter.

1 “(c) EFFECTIVE DATE.—This section shall take ef-
 2 fect on the date that is 1 year after the date of enactment
 3 of the American Space Commerce Free Enterprise Act of
 4 2019.

5 **“§ 80209. Commercial Remote Sensing Regulatory Af-**
 6 **fairs Office**

7 “On the date that is 1 year after the date of enact-
 8 ment of the American Space Commerce Free Enterprise
 9 Act of 2019, the Commercial Remote Sensing Regulatory
 10 Affairs Office of the National Oceanic and Atmospheric
 11 Administration is abolished.”.

12 **SEC. 5. ADMINISTRATIVE PROVISIONS RELATED TO CER-**
 13 **TIFICATION AND PERMITTING.**

14 Title 51, United States Code, is further amended by
 15 adding at the end the following:

16 **“CHAPTER 803—ADMINISTRATIVE PROVI-**
 17 **SIONS RELATED TO CERTIFICATION**
 18 **AND PERMITTING**

“Sec.

“80301. Administrative authority.

“80302. Consultation.

“80303. Appeal of denial or condition of certification or permit.

“80304. Exclusive authority for determination of international obligations.

“80305. Limitation on certain agency supervision.

“80306. Commercial exploration and use of outer space.

“80307. Rule of construction on concurrent application submission.

“80308. Federal jurisdiction.

“80309. Global commons.

“80310. Regulatory authority.

“80311. Consultation with relevant agencies.

“80312. Authorization of appropriations.

1 **“§ 80301. Administrative authority**

2 “(a) FUNCTIONS.—In order to carry out the respon-
3 sibilities specified in this subtitle, the Secretary may—

4 “(1) seek an order of injunction or similar judi-
5 cial determination from a district court of the
6 United States with personal jurisdiction over the
7 certification or permit holder to terminate certifi-
8 cations or permits under this subtitle and to termi-
9 nate certified or permitted operations on an imme-
10 diate basis, if the Secretary determines that the cer-
11 tification or permit holder has substantially failed to
12 comply with any provisions of this subtitle, or with
13 any terms of a certification or permit;

14 “(2) provide for civil penalties not to exceed
15 \$10,000 (each day of operation constituting a sepa-
16 rate violation) and not to exceed \$500,000 in total,
17 for—

18 “(A) noncompliance with the certification
19 or permitting requirements or regulations
20 issued under this subtitle; or

21 “(B) the operation of a space object or
22 space-based remote sensing system without the
23 applicable certification or permit issued under
24 this subtitle;

25 “(3) compromise, modify, or remit any such
26 civil penalty;

1 “(4) seize any object, record, or report, or cop-
2 ies of materials, documents, or records, pursuant to
3 a warrant from a magistrate based on a showing of
4 probable cause to believe that such object, record, or
5 report was used, is being used, or is likely to be used
6 in violation of this subtitle or the requirements of a
7 certification or permit or regulation issued there-
8 under; and

9 “(5) make investigations and inquiries con-
10 cerning any matter relating to the enforcement of
11 this subtitle.

12 “(b) REVIEW OF AGENCY ACTION.—Any holder of,
13 or applicant for, a certification or a permit who makes
14 a timely request for review of an adverse action pursuant
15 to paragraph (2) or (4) of subsection (a) shall be entitled
16 to adjudication by the Secretary on the record after an
17 opportunity for any agency hearing with respect to such
18 adverse action. Any final action by the Secretary under
19 this subsection shall be subject to judicial review under
20 chapter 7 of title 5, as provided in section 80303 of this
21 chapter.

22 “(c) NO COST FOR CERTIFICATION OR PERMIT.—
23 The Secretary may not impose a fee or other cost on a
24 holder of, or applicant for—

25 “(1) a certification under chapter 801; or

1 “(2) a permit under chapter 802.

2 “(d) NO AUTHORITY TO SET CONDITIONS.—The
3 Secretary may not impose a substantive condition on, or
4 any other requirement for, the issuance of a certification
5 or permit except as specifically provided in this subtitle.

6 “(e) FOIA EXEMPTION.—Paragraph (3) of section
7 552(b) of title 5 shall apply with respect to any filing re-
8 lating to a certification or a permit under this subtitle.

9 “(f) LIMITATION ON EXCEPTIONS TO ADMINISTRA-
10 TIVE PROCEDURES.—The exceptions under section
11 553(a)(1), section 553(b)(B), or section 554(a)(4) of title
12 5 shall not apply with respect to a certification or permit
13 under this subtitle.

14 **“§ 80302. Consultation**

15 “(a) SENSE OF CONGRESS.—It is the sense of the
16 Congress that—

17 “(1) the United States Government has assets
18 in Earth orbit critical to national security, scientific
19 research, economic growth, and exploration;

20 “(2) such assets represent a considerable in-
21 vestment of United States taxpayers; and

22 “(3) it is in the national interest of the United
23 States to facilitate opportunities to provide for the
24 protection of such assets.

1 “(b) REVIEW.—Not later than 30 days after the Sec-
2 retary issues a certification under chapter 801, the Sec-
3 retary shall review the operations of any space objects cov-
4 ered by the certification to determine whether the inter-
5 action between such operations and the operations of a
6 Federal Government space object present a substantial
7 risk to the physical safety of a space object operated by
8 either party.

9 “(c) REQUIREMENT TO PARTICIPATE IN CONSULTA-
10 TION.—If the Secretary makes a determination that a sub-
11 stantial risk identified under subsection (b) exists, the
12 Secretary may require that the certification holder partici-
13 pate in a consultation under this section.

14 “(d) PARTIES TO A CONSULTATION.—

15 “(1) IN GENERAL.—A consultation under this
16 section may be held, with respect to a substantial
17 safety risk identified under subsection (b), be-
18 tween—

19 “(A) a certification holder responsible for
20 the certified space object operations; and

21 “(B) any entity of the Federal Government
22 operating a potentially affected space object.

23 “(2) PARTICIPATION.—The Secretary may not
24 impose any requirement on a party pursuant to par-
25 ticipation in the consultation.

1 “(e) MITIGATION OF SAFETY RISK.—In carrying out
2 a consultation, the Secretary shall—

3 “(1) facilitate a discussion among the parties to
4 the consultation;

5 “(2) encourage a mutual understanding of the
6 safety risk; and

7 “(3) encourage, to the maximum extent prac-
8 ticable, voluntary agreements between the parties to
9 the consultation to improve the physical safety of af-
10 fected space object operations or mitigate the phys-
11 ical safety risk.

12 “(f) DURATION OF CONSULTATION; NOTICE.—Not
13 later than 90 days after the Secretary requires a consulta-
14 tion under this section, the Secretary shall—

15 “(1) complete all activities related to the con-
16 sultation; and

17 “(2) submit to Congress a written notification
18 with respect to such consultation, that includes—

19 “(A) the names of each party to the con-
20 sultation;

21 “(B) a description of the physical safety
22 risk at issue;

23 “(C) whether any voluntary agreement was
24 made by the parties; and

25 “(D) the content of any such agreement.

1 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to grant any additional authority
3 to the Secretary to regulate, or place conditions on, any
4 activity for which a certification or permit is required
5 under this subtitle.

6 **“§ 80303. Appeal of denial or condition of certifi-**
7 **cation or permit**

8 “An applicant who is denied a certification under sec-
9 tion 80103(b)(2)(B), an applicant who is denied a permit
10 under section 80202(b)(2)(B), or an applicant whose cer-
11 tification or permit is conditioned pursuant to section
12 80103(c) or section 80202(c), respectively, may appeal the
13 denial or placement of a condition to the Secretary. The
14 Secretary shall affirm or reverse the denial or placement
15 of a condition after providing the applicant notice and an
16 opportunity to be heard. The Secretary shall dispose of
17 the appeal not later than 60 days after the appeal is sub-
18 mitted. If the Secretary denies the appeal, the applicant
19 may seek review in the United States Court of Appeals
20 for the District of Columbia Circuit or in the court of ap-
21 peals of the United States for the circuit in which the per-
22 son resides or has its principal place of business.

1 **“§ 80304. Exclusive authority for determination of**
2 **international obligations**

3 “Except for the Secretary as authorized by this sub-
4 title, no agency may impose a requirement or make a find-
5 ing with regard to an international obligation of the
6 United States pertaining to a nongovernmental entity of
7 the United States under the Outer Space Treaty relating
8 to—

9 “(1) the operation of a space object certified
10 under chapter 801; and

11 “(2) the carrying out of a space debris mitiga-
12 tion plan of a space object for which a certification
13 was issued under chapter 801.

14 **“§ 80305. Limitation on certain agency supervision**

15 “(a) IN GENERAL.—Not later than 1 year after the
16 date of enactment of the American Space Commerce Free
17 Enterprise Act of 2019, no other agency shall have the
18 authority to authorize, place conditions on, or supervise
19 the operation of space objects required to be certified
20 under chapter 801 or space-based remote sensing systems
21 required to be permitted under chapter 802 except—

22 “(1) the Department of Transportation with re-
23 spect to launch or reentry vehicle operations licensed
24 under chapter 509; and

25 “(2) the Federal Communications Commission
26 with respect to space stations licensed under the

1 Communications Act of 1934 (47 U.S.C. 151 et
2 seq.).

3 “(b) AGREEMENT LIMITATIONS.—Nothing in this
4 section shall be construed to prevent an agency from in-
5 cluding additional terms, conditions, limitations, or re-
6 quirements, consistent with applicable provisions of law,
7 beyond those required in this subtitle in a contract or
8 other agreement with—

9 “(1) the holder of a certification under chapter
10 801 for the operation of the applicable space object;
11 or

12 “(2) the holder of a permit under chapter 802
13 for the operation of the applicable space-based re-
14 mote sensing system.

15 **“§ 80306. Commercial exploration and use of outer**
16 **space**

17 “To the maximum extent practicable, the President,
18 acting through appropriate Federal agencies, shall inter-
19 pret and fulfill international obligations, including under
20 the covered treaties on outer space, to minimize regula-
21 tions and limitations on the freedom of United States non-
22 governmental entities to explore and use space.

1 **“§ 80307. Rule of construction on concurrent applica-**
2 **tion submission**

3 “Nothing in this subtitle shall be construed to pre-
4 vent an applicant from submitting to the Secretary con-
5 current applications for a certification under chapter 801
6 and a permit under chapter 802. The Secretary shall pro-
7 vide for applications under chapter 801 and chapter 802
8 to be filed concurrently or at different times, at the discre-
9 tion of the applicant. To the maximum extent practicable,
10 the Secretary shall avoid duplication of information re-
11 quired in concurrently filed applications.

12 **“§ 80308. Federal jurisdiction**

13 “The district courts shall have original jurisdiction,
14 exclusive of the courts of the States, of any civil action
15 resulting from the operation of a space object for which
16 a certification or permit is required under this subtitle.

17 **“§ 80309. Global commons**

18 “Notwithstanding any other provision of law, outer
19 space shall not be considered a global commons.

20 **“§ 80310. Regulatory authority**

21 “(a) IN GENERAL.—The Secretary shall issue such
22 regulations as are necessary to carry out this subtitle.

23 “(b) REDUCING REGULATORY BURDEN.—In issuing
24 regulations to carry out this subtitle, the Secretary shall
25 avoid, to the maximum extent practicable, the placement
26 of inconsistent, duplicative, or otherwise burdensome re-

1 requirements on the operations of United States nongovern-
 2 mental entities in outer space.

3 **“§ 80311. Consultation with relevant agencies**

4 “(a) IN GENERAL.—Subject to subsection (b), the
 5 Secretary shall, as the Secretary considers necessary, con-
 6 sult with the heads of other relevant agencies in carrying
 7 out this subtitle.

8 “(b) EXCLUSIVE AUTHORITY OF THE SECRETARY.—

9 The consultation authority provided by subsection (a)
 10 shall not be interpreted to alter the exclusive authority of
 11 the Secretary to authorize, place conditions on, and super-
 12 vise the operation of space objects under chapter 801 and
 13 space-based remote sensing systems under chapter 802,
 14 as provided in and subject to the limitations of section
 15 80305.

16 **“§ 80312. Authorization of appropriations**

17 “There are authorized to be appropriated \$5,000,000
 18 to the Office of Space Commerce for fiscal year 2020 to
 19 carry out this subtitle.”.

20 **SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.**

21 (a) TABLE OF CHAPTERS.—The table of chapters of
 22 title 51, United States Code, is amended by adding at the
 23 end the following:

**“Subtitle VIII—Authorization and Supervision of
 Nongovernmental Space Activities**

“801. Certification to Operate Space Objects80101

“802. Permitting of Space-Based Remote Sensing Systems	80201
“803. Administrative Provisions Related to Certification and Permitting	80301”.

1 (b) REPEALS.—

2 (1) IN GENERAL.—Title 51, United States
3 Code, is amended as follows:

4 (A) Subchapter III of chapter 601 is re-
5 pealed.

6 (B) Section 60147 is repealed.

7 (C) The table of sections for chapter 601
8 is amended by striking the item relating to sec-
9 tion 60147.

10 (D) The table of sections for chapter 601
11 is amended by striking the items relating to
12 subchapter III.

13 (2) EFFECTIVE DATE.—The amendments made
14 by paragraph (1) shall take effect on the date that
15 is 1 year after the date of enactment of this Act.

16 (c) TECHNICAL CORRECTIONS.—

17 (1) IN GENERAL.—Title 51, United States
18 Code, is amended—

19 (A) in section 20302(c)(2), by striking
20 “means has the meaning” and inserting “has
21 the meaning”;

1 (B) in section 50702(c)(5), by striking
 2 “Space-Based Position” and inserting “Space-
 3 Based Positioning”; and

4 (C) in section 71102(1), by striking
 5 “tracking device” and inserting “tracking de-
 6 vice to”.

7 (2) CHAPTER 513.—The table of chapters of
 8 title 51, United States Code, is amended by striking
 9 the item related to chapter 513 and inserting the
 10 following:

**“513. Space Resource Commercial Exploration and Utili-
 zation51301”.**

11 (3) CHAPTER 701.—The table of chapters of
 12 title 51, United States Code, is amended by striking
 13 the item related to chapter 701 and inserting the
 14 following:

“701. Use of Space Launch System or Alternatives70101”.

15 **SEC. 7. OFFICE OF SPACE COMMERCE.**

16 Section 50702 of title 51, United States Code, is
 17 amended—

18 (1) in subsection (a), by adding at the end be-
 19 fore the period “, which shall be located in the prin-
 20 cipal physical location of the Office of the Secretary
 21 of Commerce”;

22 (2) in subsection (b), by striking “a senior exec-
 23 utive and shall be compensated at a level in the Sen-

ior Executive Service under section 5382 of title 5
as determined by the Secretary of Commerce” and
inserting “appointed by the President and confirmed
by the Senate. The Director shall be the Assistant
Secretary of Commerce for Space Commerce and
shall report directly to the Secretary of Commerce”;
and

(3) in subsection (c)—

(A) in paragraph (4), by striking “and” at
the end;

(B) in paragraph (5), by striking the pe-
riod at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(6) to authorize and supervise the operations
of United States nongovernmental entities in outer
space, pursuant to chapter 801 of this title;

“(7) to authorize and supervise the operations
of space-based remote sensing systems pursuant to
chapter 802 of this title; and

“(8) to facilitate and promote the development
of best practices among operators of space objects
and space-based remote sensing systems under this
subtitle to address substantial risks to the physical
safety of Federal Government space objects, includ-
ing the risk of on-orbit collisions.”.

1 **SEC. 8. RESTRICTION ON PREVENTING LAUNCHES AND RE-**
2 **ENTRIES OF CERTIFIED SPACE OBJECTS.**

3 Section 50904(c) of title 51, United States Code, is
4 amended by adding at the end the following: “No launch
5 or reentry may be prevented under this authority on the
6 basis of national security, foreign policy, or international
7 obligations of the United States, including under the cov-
8 ered treaties on outer space (as defined in section 80101)
9 if the payload has received a certification to operate as
10 a space object under chapter 801.”.

11 **SEC. 9. REPORT ON REGISTRATION OF SPACE OBJECTS.**

12 (a) IN GENERAL.—Not later than 1 year after the
13 date of enactment of this Act, the Secretary of Commerce,
14 acting through the Office of Space Commerce and in con-
15 sultation with the Private Space Activity Advisory Com-
16 mittee established under section 80109 of title 51, United
17 States Code, shall submit to the Committee on Science,
18 Space, and Technology of the House of Representatives
19 and the Committee on Commerce, Science, and Transpor-
20 tation of the Senate a report on the implementation of
21 the space object registration obligations of the United
22 States and other countries under Article VIII of the Outer
23 Space Treaty and the Convention on Registration of Space
24 Objects.

25 (b) CONTENTS OF REPORT.—The report required
26 under subsection (a) shall include—

1 (1) an identification of the practices and proce-
2 dures among countries that are members of the
3 Outer Space Treaty and the Convention on Registra-
4 tion of Space Objects in implementing and com-
5 plying with the registration obligations contained in
6 the treaties;

7 (2) a description of any existing practices and
8 procedures of the Federal Government for the reg-
9 istration of nongovernmental space objects; and

10 (3) recommendations on how the registration of
11 space objects in the United States could be improved
12 to benefit the United States, including enabling
13 United States leadership in commercial space activi-
14 ties.

15 **SEC. 10. COMPTROLLER GENERAL REPORT.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Comptroller General of the United States
18 shall submit to Congress a report on removing the Office
19 of Commercial Space Transportation from under the juris-
20 diction of the Federal Aviation Administration and rees-
21 tablishing the Office under the jurisdiction of the Sec-
22 retary of Transportation. Such report shall include—

23 (1) the identification of key practices for suc-
24 cessful organizational transitions;

1 (2) the advantages and disadvantages of the re-
2 moval and reestablishment with respect to the ability
3 of the Office to continue to coordinate and commu-
4 nicate with Federal Aviation Administration on air-
5 space issues; and

6 (3) the identification of any issues that are pre-
7 venting the Office from fully carrying out its statu-
8 tory mandate, and if such issues would persist re-
9 gardless of organizational location of the Office with-
10 in the Department of Transportation.

○